IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CRIMINAL CASE NO. 3:07cr283

UNITED STATES OF AMERICA,)	
)	
)	
vs.)	<u> </u>
MICHAEL MARSHALL)	
)	

THIS MATTER is before the Court on the Government's Motion for Modification of Restitution Order [Doc. 46].

On October 26, 2009, the Judgment in this case was entered providing for restitution pursuant to the Mandatory Victim Restitution Act (MVRA). 18 U.S.C. §3664(d). At the time of sentencing, it was understood that the total amount of restitution, \$1,224,721.55, owed to Countrywide Mortgage would be reduced by the amount received by the victim at the time of resale of the collateral. [Doc. 38, at 5a]. The Judgment reflects that restitution was to be determined. [Id., at 4].

The Government now seeks leave to modify the Judgment to provide for restitution in favor of Countrywide Mortgage in the amount of \$574,406.57.

This amount is the total due after application of the proceeds of resale of the collateral. The Defendant has not objected and the reduction is in his best interest.

Although this amendment comes more than ninety days after sentencing, this Court retains jurisdiction to amend the order. <u>United States v. Johnson</u>, 400 F.3d 187,199 (4th Cir. 2005), *certiorari denied* 546 U.S. 856, 126 S.Ct. 134, 163 L.Ed.2d 133 (2005); <u>United States v. Zakhary</u>, 357 F.3d 186 (2nd Cir. 2004), *certiorari denied* 541 U.S. 1092, 124 S.Ct. 2833, 159 L.Ed.2d 259 (2004). "[D]istrict courts can enter restitution orders more than ninety days after sentencing provided that the delay does not prejudice the defendant." <u>Johnson</u>, 400 F.3d at 199. As noted, the amendment here is to the Defendant's benefit and the Court finds it should be granted. Id.

The Clerk of Court is instructed to prepare an amended judgment for the Defendant amending the amount of restitution due to Countrywide Mortgage to the sum of \$574,406.57 as reflected on page 5a of the judgment. All other terms and provisions of the judgment shall remain the same.

IT IS, THEREFORE, ORDERED that the Government's Motion for Modification of Restitution Order [Doc. 46] is hereby **GRANTED**.

The Clerk of Court is instructed to prepare the amended judgment in accordance with this Order.

Signed: July 5, 2010

Martin Reidinger

United States District Judge